

FILED

03 APR -7 AM 11:59

CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

DANAHER POWER SOLUTIONS, LLC,	)	
f/k/a Cyberex, LLC,	)	CASE NO. 1: 02 CV 1889
	)	
Plaintiff,	)	JUDGE: GAUGHAN
vs.	)	
	)	DEFENDANT RUSSELECTRIC,
LAYERZERO POWER SYSTEMS, INC. et. al.	)	INC.'S ANSWER TO THE
	)	AMENDED COMPLAINT,
Defendants	)	WITH AFFIRMATIVE
	)	<u>DEFENSES AND JURY DEMAND</u>

Defendant Russelectric, Inc. ("Russelectric"), by and through its attorneys, hereby states for its Answer to the Amended Complaint of Plaintiff, Danaher Power Solutions, LLC, as follows:

PARTIES

1. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

2. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

3. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

4. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

5. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

6. Russelectric admits that it is a Massachusetts corporation and that its principle place of business is at 99 Industrial Park Road, Hingham Massachusetts 02043. The remaining allegations of this paragraph are not sufficiently precise for Russelectric to respond thereto.

Further answering Russelectric states that it has sold product in the past within the state of Ohio, but that it has not manufactured or delivered the LayerZero switch in question in the State of Ohio.

#### VENUE AND JURISDICTION

7. Paragraph 7 of the Amended Complaint sets forth a conclusion of law and, therefore, requires no response from Russelectric. However, to the extent that Paragraph purports to establish subject matter jurisdiction, pursuant to Fed. R. Civ. P. 12(h) (3), parties may not consent to such jurisdiction and an objection based thereon is not waived.

8. Paragraph 8 of the Amended Complaint sets forth a conclusion of law and, therefore, requires no response from Russelectric. To the extent that an answer from Russelectric

is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

9. Paragraph 9 of the Amended Complaint sets forth a conclusion of law and, therefore, requires no response from Russelectric. To the extent that an answer from Russelectric is required, Russelectric denies the allegations contained within this paragraph

#### COMMON ALLEGATIONS

10. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

11. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

12. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

13. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

14. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

15. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

16. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

17. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

18. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

19. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

20. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a

response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

21. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

22. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

23. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

24. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to

form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

25. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

26. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

27. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

28. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

29. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

30. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

31. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

32. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

33. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a

response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

34. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

35. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

36. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

37. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to



form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

38. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

39. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

40. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

41. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

42. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

43. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

44. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

45. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

46. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a

response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

47. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

48. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

49. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

50. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

51. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

52. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

53. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric denies that its manufacture of said switch is in any way based upon confidential, proprietary, or trade secret information belonging to the Plaintiff or that the static transfer switch manufactured by Russelectric in any way infringes upon the Patents. To the extent that any further response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

54. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric denies that its manufacture of said switch is in any way based upon confidential, proprietary, or trade secret information belonging to the Plaintiff or that the static transfer switch manufactured by Russelectric in any way infringes upon the Patents. To the extent that any further response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

55. Russelectric admits that it manufactures a static transfer switch for LayerZero. Russelectric denies that its manufacture of said switch is in any way based upon confidential, proprietary, or trade secret information belonging to the Plaintiff or that the static transfer switch manufactured by Russelectric in any way infringes upon the Patents. The remaining allegations

contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore same.

56. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

57. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

58. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

59. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a

response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

60. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

61. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

62. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

63. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to

form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

64. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric denies that its manufacture of said switch is in any way based upon confidential, proprietary, or trade secret information belonging to the Plaintiff or that the static transfer switch manufactured by Russelectric in any way infringes upon the Patents. To the extent that any further response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

65. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

66. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

67. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a

response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

68. The allegations contained within this paragraph are directed to Defendants other than Russelectric and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

69. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

FIRST CLAIM

(Ohio Uniform Trade Secrets Act - Individual Defendants and LayerZero)

70. Russelectric repeats and incorporates by reference its answers to Paragraphs 1 through 69 of the Amended Complaint for its answer to Paragraph 70.

71. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.



72. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

73. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

74. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

75. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

76. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from

Ruselectric. To the extent that a response from Ruselectric is required, Ruselectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

77. The allegations contained within this paragraph are directed to Defendants other than Ruselectric and state conclusions of law, and therefore require no response from Ruselectric. To the extent that a response from Ruselectric is required, Ruselectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

78. The allegations contained within this paragraph are directed to Defendants other than Ruselectric and state conclusions of law, and therefore require no response from Ruselectric. To the extent that a response from Ruselectric is required, Ruselectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

79. The allegations contained within this paragraph are directed to Defendants other than Ruselectric and state conclusions of law, and therefore require no response from Ruselectric. To the extent that a response from Ruselectric is required, Ruselectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

SECOND CLAIM  
(Common Law-Individual Defendants and LayerZero)

80. Ruselectric repeats and incorporates by reference its answers to Paragraphs 1 through 79 of the Amended Complaint for its answer to Paragraph 80.

81. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

82. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

THIRD CLAIM

(Inevitable Disclosure Doctrine - Individual Defendants and LayerZero)

83. Russelectric repeats and incorporates by reference its answers to Paragraphs 1 through 82 of the Amended Complaint for its answer to Paragraph 83.

84. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

FOURTH CLAIM

(Patent Infringement – All Defendants)

85. Russelectric repeats and incorporates by reference its answers to Paragraphs 1 through 84 of the Amended Complaint for its answer to Paragraph 85.

86. The allegations contained within this paragraph state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric denies the allegations contained within this paragraph.

87. The allegations contained within this paragraph state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric denies the allegations contained within this paragraph.

88. Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

89. The allegations contained within this paragraph state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric denies the allegations contained within this paragraph.

90. The allegations contained within this paragraph state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric denies the allegations contained within this paragraph.

FIFTH CLAIM

(Breach of Fiduciary Duty, Duty of Loyalty and Good Faith – Individual Defendants)

91. Russelectric repeats and incorporates by reference its answers to Paragraphs 1 through 90 of the Amended Complaint for its answer to Paragraph 91.

92. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks

sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

93. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

94. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

95. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

SIXTH CLAIM  
(Breach of Contract – Galm)

96. Russelectric repeats and incorporates by reference its answers to Paragraphs 1 through 95 of the Amended Complaint for its answer to Paragraph 96.

97. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

98. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

99. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

100. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

101. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from

Ruselectric. To the extent that a response from Ruselectric is required, Ruselectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

102. The allegations contained within this paragraph are directed to Defendants other than Ruselectric and state conclusions of law, and therefore require no response from Ruselectric. To the extent that a response from Ruselectric is required, Ruselectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

103. The allegations contained within this paragraph are directed to Defendants other than Ruselectric and state conclusions of law, and therefore require no response from Ruselectric. To the extent that a response from Ruselectric is required, Ruselectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

SEVENTH CLAIM  
(Breach of Contract – Pinkey)

104. Ruselectric repeats and incorporates by reference its answers to Paragraphs 1 through 103 of the Amended Complaint for its answer to Paragraph 104.

105. The allegations contained within this paragraph are directed to Defendants other than Ruselectric and state conclusions of law, and therefore require no response from Ruselectric. To the extent that a response from Ruselectric is required, Ruselectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

106. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

107. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

EIGHTH CLAIM  
(Breach of Contract – Bhanoo)

108. Russelectric repeats and incorporates by reference its answers to Paragraphs 1 through 107 of the Amended Complaint for its answer to Paragraph 108.

109. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

110. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks



sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

NINTH CLAIM  
(Spoliation – Galm and Pinkey)

111. Russelectric repeats and incorporates by reference its answers to Paragraphs 1 through 110 of the Amended Complaint for its answer to Paragraph 111.

112. The allegations contained within this paragraph are directed to Defendants other than Russelectric, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

113. The allegations contained within this paragraph are directed to Defendants other than Russelectric, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

114. The allegations contained within this paragraph are directed to Defendants other than Russelectric, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

115. The allegations contained within this paragraph are directed to Defendants other than Russelectric, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

116. The allegations contained within this paragraph are directed to Defendants other than Russelectric, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

117. The allegations contained within this paragraph are directed to Defendants other than Russelectric, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

118. The allegations contained within this paragraph are directed to Defendants other than Russelectric, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

TENTH CLAIM  
(Conversion – Galm and Pinkey)

119. Defendants Russelectric repeats and incorporates by reference its answers to Paragraphs 1 through 118 of the Amended Complaint for its answer to Paragraph 119.

120. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

121. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

122. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

123. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

124. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

ELEVENTH CLAIM

(Violation of Ohio Revised Code Section 4165.02 – Individual Defendants and LayerZero)

125. Defendants Russelectric repeats and incorporates by reference its answers to Paragraphs 1 through 124 of the Amended Complaint for its answer to Paragraph 125.

126. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

127. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

128. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks

sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

129. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

130. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

TWELFTH CLAIM

(Violation of Lanham Act – Individual Defendants and LayerZero)

131. Russelectric repeats and incorporates by reference its answers to Paragraphs 1 through 130 of the Amended Complaint for its answer to Paragraph 131.

132. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

133. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

134. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

135. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

136. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

137. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from

Ruselectric. To the extent that a response from Ruselectric is required, Ruselectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

138. The allegations contained within this paragraph are directed to Defendants other than Ruselectric and state conclusions of law, and therefore require no response from Ruselectric. To the extent that a response from Ruselectric is required, Ruselectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

139. The allegations contained within this paragraph are directed to Defendants other than Ruselectric and state conclusions of law, and therefore require no response from Ruselectric. To the extent that a response from Ruselectric is required, Ruselectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

THIRTEENTH CLAIM  
(Defamation – Individual Defendants and LayerZero)

140. Ruselectric repeats and incorporates by reference its answers to Paragraphs 1 through 139 of the Amended Complaint for its answer to Paragraph 140.

141. The allegations contained within this paragraph are directed to Defendants other than Ruselectric and state conclusions of law, and therefore require no response from Ruselectric. To the extent that a response from Ruselectric is required, Ruselectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

142. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

143. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

144. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

FOURTEENTH CLAIM  
(Disparagement – Individual Defendants and LayerZero)

145. Russelectric repeats and incorporates by reference its answers to Paragraphs 1 through 144 of the Amended Complaint for its answer to Paragraph 145.

146. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks



sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

147. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

148. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

149. The allegations contained within this paragraph are directed to Defendants other than Russelectric and state conclusions of law, and therefore require no response from Russelectric. To the extent that a response from Russelectric is required, Russelectric lacks sufficient knowledge or information to form a belief as to truth or falsity of the allegations contained within this paragraph and therefore denies same.

#### AFFIRMATIVE AND OTHER DEFENSES

150. Plaintiff is barred from recovering on Claim IV of the Amended Complaint because said Claim fails to state a cause of action against Russelectric upon which relief may be granted.

151. Plaintiff is barred from recovering on Claim IV of the Amended Complaint because the damages claimed are speculative as a matter of law.

152. Plaintiff is barred from recovering on Claim IV of the Amended Complaint to the extent equitable remedies are sought, due to operation of the doctrine of unclean hands.

153. Plaintiff is barred from recovering on Claim IV of the Amended Complaint because the patents referenced therein are invalid pursuant to 35 U.S.C. § 102 because the inventions were described in a printed publication in this country more than one year prior to the date of application for patent in the United States.

154. Plaintiff is barred from recovering on Claim IV of the Amended Complaint because the patents referenced therein are invalid pursuant to 35 U.S.C. § 102 because the inventions were in prior use in this country more than one year prior to the date of application for patent in the United States.

155. Plaintiff is barred from recovering on Claim IV of the Amended Complaint because the patents referenced therein are invalid pursuant to 35 U.S.C. § 102 because the inventions were on sale in this country more than one year prior to the date of application for patent in the United States.

156. Plaintiff is barred from recovering on Claim IV of the Amended Complaint because the patents referenced therein are invalid pursuant to 35 U.S.C. § 102 because, before the applicant's invention thereof, the inventions were made in this country by another who had not abandoned, suppressed, or concealed it.

157. Plaintiff is barred from recovering on Claim IV of the Amended Complaint because the referenced patents are invalid pursuant to 35 U.S.C. § 112.

158. Plaintiff is barred from recovering on Claim IV of the Amended Complaint because the referenced patents are invalid in accordance with 35 U.S.C. § 103(a) because the differences between the subject matter sought to be patented and the prior art are such that the subject matter would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

159. Plaintiff is barred from recovering on Claim IV of the Amended Complaint because the patents are unenforceable due to commission of fraud on the Patent Office by the assignee of the referenced patents. More specifically, and without limitation:

- a. Under 37 C.F.R. 1.56, an individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability.
- b. Various officers and/or employees of the assignee of the referenced patents at the time of application, Cyberex, are individuals associated with the filing or prosecution of the referenced patents within the meaning of 37 C.F.R. 1.56.
- c. On information and belief, various officers and employees at Cyberex were, at the time of filing and prosecution of the referenced patents, aware of the details of the filing of the referenced patents, aware of prior public use, sales, and offers for sale of products embodying the inventions of the referenced patents, aware of prior invention of the subject matter of the referenced patents, and/or aware of material prior art publications,

including a book written by a Cyberex founder. On information and belief, these individuals believed and stated to each other at the time of filing and prosecution of the referenced patent applications that the patents would be invalid if issued.

- d. Despite this knowledge and belief, no officers or employees of Cyberex, nor any other person, disclosed these material prior activities and/or prior art publications to the Patent Office, to the inventor, or to the prosecuting attorney during filing and prosecution of the referenced patents.
- e. Plaintiff is therefore barred from recovering on Claim IV of the Amended Complaint because the patents are unenforceable due to fraud on the Patent Office committed by officers and/or employees of the assignee by virtue of their failure to meet the Duty to Disclose Information Material to Patentability imposed by 37 C.F.R. 1.56.

160. Plaintiff is barred from recovering on Claim IV of the Amended Complaint because the referenced patents are otherwise invalid and/or unenforceable.

161. Plaintiff is barred from recovering on Claim IV of the Amended Complaint because the referenced patents are not infringed by the LayerZero Static Transfer Switch.

162. Plaintiff is barred from recovering on Claim IV of the Amended Complaint because said Claim is either unwarranted under existing law, and/or because its supporting factual allegations lack evidentiary support and/or are being presented for an improper purpose.

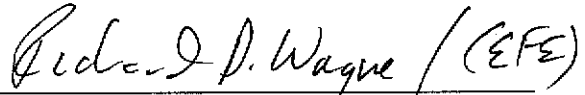
WHEREFORE, Russelectric, having fully responded to the Amended Complaint, requests that the Complaint be dismissed with prejudice and that it be awarded costs and

attorneys' fees herein and such other relief, legal or equitable, that this Court deems suitable and proper.

Respectfully submitted,

**RUSELECTRIC, INC.**

By its attorney,

 (EFE)

Richard D. Wayne, Esq. (#18200)

rwayne@haslaw.com

Hinckley, Allen and Snyder LLP

28 State Street

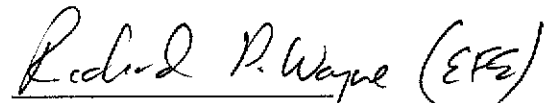
Boston, MA 02109

(617) 345-9000

(617) 345-9020 facsimile

**JURY DEMAND**

In accordance with Rule 38(b) of the Federal Rules of Civil Procedure, Defendant Russelectric, Inc. hereby demands trial by jury of all issues presented by all of the pleadings herein that are triable of right by jury.

By:  (EFE)  
Richard D. Wayne, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that, on April 2, 2003, a copy of the foregoing Answer to Amended Complaint was served upon all counsel of record, by first class mail, postage pre-paid.

Richard D. Wayne (CFE)  
Richard D. Wayne, Esq.